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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 WALTER V. LUCAS,

No. CIV S-04-0586-GEB-CMK-P

12 Plaintiff,

13 vs.

ORDER

14 B. ARNOLD,

15 Defendant.
16 _____/

17 Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant
18 to 42 U.S.C. § 1983. This case proceeds on plaintiff's second amended complaint, deemed filed
19 as of December 27, 2005 (Doc. 54, Exhibit Y). Defendant Arnold is the only named defendant in
20 the second amended complaint. Following a motion for summary judgment which was granted in
21 part and denied in part, this case proceeds on plaintiff's Eighth Amendment claim for excessive
22 force only.

23 Both parties have filed pre-trial statements, and this case is ready to be set for trial.
24 Plaintiff has also requested the appointment of counsel, which has, up to this point, been denied.
25 In certain exceptional circumstances, the court may request the voluntary assistance of counsel
26 pursuant to 28 U.S.C. § 1915(e)(1). See Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991).

1 Although this case may not have the required "exceptional circumstances," the court is willing to
2 attempt to appoint counsel for plaintiff to assist him with trial. The court will refer this case to the
3 Civil Rights Clinic in this district to determine if they are able to represent plaintiff at trial.

4 If the Civil Rights Clinic is able to represent plaintiff at trial, both parties will be
5 provided an opportunity to file supplemental pre-trial statements. At that time, a trial date will be
6 set.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. The Court will refer this case to the Civil Rights Clinic in this district to
9 determine if they are able to represent plaintiff at trial;

10 2. The Clerk of the Court is directed to send a copy of plaintiff's second
11 amended complaint (Doc. 54, Exhibit Y) and a copy of this order to the University of California,
12 King Hall Civil Rights Clinic;

13 3. The King Hall Civil Rights Clinic shall inform the court of whether they
14 will accept this case within 20 days from the date of this order;

15 4. Should the King Hall Civil Rights Clinic accept this case, the court will
16 make arrangements for forwarding a copy of the file; and

17 5. If the King Hall Civil Rights Clinic accepts this case, by separate order the
18 parties will be provided an opportunity to file a supplemental pre-trial statement.

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21 DATED: October 9, 2008

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23 **CRAIG M. KELLISON**
24 UNITED STATES MAGISTRATE JUDGE
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